



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA-R07-OAR-2018-0642; FRL-9988-94-Region 7]

Air Plan Approval; Iowa; State Implementation Plan and Operating Permits Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Iowa State Implementation Plan (SIP) and the Operating Permits Program. The revisions include updating definitions, clarifying permit rule exemptions and permit-by-rule regulations, revising methods and procedures for performance test/stack test and continuous monitoring systems, and updating the Prevention of Significant Deterioration (PSD) regulations and Operating Permits Program. In addition, the State has removed its rules that implement the Clean Air Interstate Rule (CAIR) and revised their acid rain rules. These revisions will not impact air quality and will ensure consistency between the state and federally approved rules.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2018-0642. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Stephanie Doolan, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7719, or by email at Doolan.Stephanie@epa.gov

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to EPA. This section provides additional information by addressing the following:

- I. Background.
- II. What is Being Addressed in this Document?
- III. Have the Requirements for Approval of the SIP and Operating Permit Plan Revisions Been Met?
- IV. The EPA's Response to Comments.
- V. What Action is the EPA Taking?
- VI. Incorporation by Reference.
- VII. Statutory and Executive Order Reviews.

I. Background

On October 2, 2018, the EPA proposed to approve in the **Federal Register** revisions to the Iowa State Implementation Plan (SIP) and the Operating Permits Program. See 83 FR 49509. The revisions update and clarify rules and make minor revisions and corrections. Approval of these revisions will ensure consistency between the state and federally-approved rules, and ensure Federal enforceability of the state's revised air program rules.

The EPA received comments from two sources prior to the close of the comment period. A detailed discussion of Iowa's SIP revisions and the Operating Permits Program revisions were provided in the proposed rule and will not be restated here, except to the extent relevant to our response to the public comments we received.

II. What is Being Addressed in this Document?

The EPA is taking final action to approve the revisions to the Iowa SIP and the State's Operating Permits Program. These revisions:

- Update the definition for EPA reference method and volatile organic compounds (VOCs);
- Clarify permit rule exemptions and the State's permit-by-rule regulation;

- Update methods and procedures for performance test/stack test and continuous monitoring systems.
- Rescind State rules that implement the CAIR;
- Revise the State's Prevention of Significant Deterioration (PSD) regulations to incorporate the most recent Federal requirements;
- Revise the State's Operating Permits Program by revising the definition for EPA Reference Method, clarifying insignificant activities as applied to internal combustion engines, revising forms used to submit emission inventories and due dates as well as revising the public participation rules; and
- Revise the State's acid rain rules to include the most recent EPA Reference Method.

As noted in the proposed rule, the EPA is not acting on Chapter 25.2 - Continuous emission monitoring under the acid rain program, as these provisions are not approved in the operating permits program. EPA is also not acting on the New Source Performance Standards, emission standards for hazardous air pollutants, emission standards for hazardous air pollutants for source categories, and emission guidelines that were submitted in this SIP revision. These will be addressed separately in a future action.

Chapters with revisions are as follows:

- Chapter 22 - Controlling Pollution
- Chapter 25 - Measurement of Emissions
- Chapter 30 - Fees
- Chapter 33 - Special Regulations and Construction
Permit Requirements for Major Stationary Sources -
Prevention of Significant Deterioration (PSD) of Air
Quality
- Chapter 34 - Provisions for Air Quality Emissions
Trading Programs

III. Have the Requirements for Approval of the SIP and Operating Permit Plan Revisions Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR § 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the proposal published in the **Federal Register** on October 2, 2018, these revisions meet the substantive SIP requirements of the Clean Air Act (CAA), including section 110 and implementing regulations. See 83 FR 49509. These revisions are also consistent with applicable requirements of title V of the CAA and 40 CFR part 70.

IV. The EPA's Response to Comments

The public comment period for the EPA's proposed rule opened October 2, 2018, the date of its publication in the **Federal Register**, and closed on November 1, 2018. During this period, the EPA received comments from two commenters with three comments. One of the commenters was supportive of the EPA's proposed approval of the State's rescission of its CAIR regulations. Below are adverse comments with the EPA's responses.

First commenter, comment 1: The commenter is opposed to the State's rule revisions that allow PSD permit notices to be published on a website instead of a newspaper. The commenter's concern is that lower income and lower education level communities are not as likely to have internet access and thus are unlikely to learn about the public notices and comment periods. The commenter recommends retaining the requirement to post public notices for PSD permits in local newspapers for the affected areas and posting notices on a public website.

The EPA's response to comment 1: Iowa revised its PSD public participation procedures in 567 Iowa Administrative Code (IAC) 33.3(17) to be consistent with Federal PSD public participation procedures in 40 CFR §51.166(q)(2). The EPA responded to similar concerns such as those raised by the commenter when it

promulgated changes to the public notice provisions in CAA Permitting programs in 40 CFR §51.166, and stated that the EPA's final rule did not preclude a permitting authority from providing supplemental notification to the public, such as a supplemental notice in a newspaper (81 FR 71613, October 2, 2018). Accordingly, the changes to the State's PSD permit public notice requirements provide for notification via other means if necessary to ensure adequate notice to the affected public. Because Iowa's PSD permit public notice provisions meet the minimum criteria for notifying the public of the availability of PSD permitting information in 40 CFR §51.166(q)(2), EPA is approving the State's rule revision into the SIP without modification.

Second commenter, comment 2: The second commenter expressed concern that the compound 1,1,2,2-tetrafluoro-1-(2,2,2-trifluoroethoxy) ethane (HFE-347pcf2) is being excluded from the state definition of a "volatile organic compounds" (VOC). Specifically, the commenter is concerned about potential adverse health effects from exposure to HFE-347pcf2 and requested that the State be required to continue to monitor levels of this compound for a period of time following the approval of the SIP revisions.

The EPA's response to comment 2: The State excluded HFE-347pcf2 from the definition of VOC in 567 IAC 20.2 to be consistent with the Federal definition of VOC in 40 CFR § 51.100. The EPA has removed HFE-347pcf2 from the definition of VOC because this compound makes a negligible contribution to tropospheric ozone formation (81 FR 50330, August 1, 2016). The EPA discussed similar health concerns such as those raised by the commenter when it promulgated changes to the Federal definition of VOC to exclude HFE-347pcf2, and discussed another Federal regulatory program, the Toxic Substances Control Act (TSCA), that allows EPA to evaluate whether an unreasonable risk is expected by the manufacture, processing, distribution in commerce, use, and disposal of HFE-347pcf2. *See id.* Because Iowa's definition of VOC is consistent with the Federal definition of VOC in 40 CFR 51.100, the EPA is approving the State's rule revision into the SIP without modification.

Second commenter, comment 3: The second commenter also commented on the removal of the requirement to post public notices for PSD permits in local newspapers in the affected area. The second commenter advocates that the public notices should be concurrently posted in the local newspapers and on the state's website for an unspecified time until the public becomes familiar with accessing the information online, and then the

removal of the requirement to post the public notices in the newspaper could occur.

The EPA's response to comment 3: For the reasons discussed in the EPA's response to comment 1 above, the EPA is approving the state's rule revision into the SIP without modification.

V. What Action is the EPA Taking?

The EPA is approving revisions to the Iowa SIP and the Operating Permits Program. The revisions clarify rules, make revisions and corrections, and rescind rules no longer relevant to the air program. The EPA has determined that approval of these revisions will not impact air quality and will ensure consistency between the state and federally-approved rules, and ensure Federal enforceability of the State's revised air program rules.

VI. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Iowa Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these materials generally available through

www.regulations.gov and at the EPA Region 7 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

VII. Statutory and Executive Order Reviews

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

¹ 62 FR 27968 (May 22, 1997).

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Particulate matter, Reporting and recordkeeping requirements,
Volatile organic compounds.

40 CFR Part 70

Environmental protection, Administrative practice and
procedure, Air pollution control, Intergovernmental relations,
Operating permits, Reporting and recordkeeping requirements.

Dated: December 26, 2018.

Edward H. Chu,
Acting Regional Administrator,
Region 7.

For the reasons stated in the preamble, EPA is amending 40 CFR parts 52 and 70 as set forth below:

Part 52 -- APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Q Iowa

2. Amend §52.820, paragraph(c), by:

a. Revising the table entries "567-20.2", "567-22.1", "567-22.8", "567-25.1", "567-33.1", and "567-33.3", and

b. Removing the table entries and the heading for "Chapter 34 – Provisions for Air Quality Emissions Trading Programs" in its entirety.

The revisions read as follows:

§ 52.820 Identification of plan.

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(c) * * *

EPA-Approved Iowa Regulations

Iowa citation	Title	State effective date	EPA approval date	Explanation
Iowa Department of Natural Resources Environmental Protection Commission [567]				
Chapter 20—Scope of Title-Definitions				
* * * * *				
567-20.2	Definitions	4/18/2018	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	The definitions for "anaerobic lagoon," "odor," "odorous substance," "odorous substance source" are not SIP approved.
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Chapter 22-Controlling Pollution				
567-22.1	Permits Required for New or Stationary Sources	4/18/2018	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	In 22.1(3) the following sentence regarding electronic submission is not SIP approved. The sentence is: "Alternatively, the owner or operator may apply for a construction permit for a new or modified stationary source through the electronic submittal format specified by the department."
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567-22.8	Permit by Rule	4/18/2018	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
Chapter 25—Measurement of Emissions				
567-25.1	Testing and Sampling of New and Existing Equipment	4/18/2018	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	

Iowa citation	Title	State effective date	EPA approval date	Explanation
			citation]	
* * * * *				
Chapter 33—Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality				
567-33.1	Purpose	4/18/2018	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
567-33.3	Special Construction Permit Requirements for Major Stationary Sources in Areas Designated Attainment or Unclassified (PSD)	4/18/2018	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	Provisions of the 2010 PM2.5 PSD—Increments, SILs and SMCs rule (75 FR 64865, October 20, 2010) relating to SILs and SMCs that were affected by the January 22, 2013, U.S. Court of Appeals decision are not SIP approved. Iowa's rule incorporating EPA's 2007 revision of the definition of "chemical processing plants" (the "Ethanol Rule," published May 1, 2007) or EPA's 2008 "fugitive emissions rule," (published December 19, 2008) are not SIP-approved.
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PART 70 -- STATE OPERATING PERMIT PROGRAMS

3. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

4. Amend appendix A to part 70 by adding paragraph (t) under Iowa to read as follows:

**Appendix A to Part 70 -- Approval Status of State and Local
Operating Permits Programs**

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Iowa

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(t) The Iowa Department of Natural Resources submitted for program approval revisions to rules 567-22.100, 567-22.103, 567-22.106, 567-22.107, and 567-30.4. The state effective date is April 18, 2018. This revision is effective **[Insert date 60 days after date of publication in the Federal Register]**.

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[FR Doc. 2019-00793 Filed: 2/4/2019 8:45 am; Publication Date: 2/5/2019]